

KEVIN T. CONWAY, ESQ.
ATTORNEY AT LAW
LICENSED IN
N.Y., N.J., CT.

*80 Red Schoolhouse Road, Suite 110
Spring Valley, NY 10977
Tel: (845) 352-0206
Fax: (845) 352-0481*

*c/o DeCotiis, Fitzpatrick, Cole & Giblin, LLC
61 South Paramus Road, Suite 250
Paramus, NJ 07652
Tel: (201) 928-1100*

April 22, 2020

The Honorable Judge John G. Koeltl
United States Courthouse
500 Pearl Street
New York, NY 10007

***Re: 1:19-cv-07189-JGK Plaintiff's Sixth Letter Motion for Extension of Time within
Which to Effectuate Service on Defendant***

Dear Judge Koeltl:

Pursuant to Fed. R. Civ. P. 4(m), Plaintiff, Malibu Media, LLC, move for entry of an order extending the time within which Plaintiff has to serve the John Doe Defendant with a Summons and Complaint, and states:

1. Plaintiff commenced this action against the internet subscriber assigned IP 98.116.191.111 (“Defendant”) on July 31, 2019, at which time it filed a complaint alleging that Defendant copied and distributed one or more of Plaintiff’s copyrighted works, all without Plaintiff’s consent. *See* CM/ECF 1. Plaintiff asserted a claim for direct copyright infringement, and requested that Defendant delete and permanently remove, and be enjoined from continuing to infringe, Plaintiff’s copyrighted works. *See id.*

2. On September 3, 2019, Plaintiff was granted leave to serve a third-party subpoena on Defendant’s ISP, Verizon, to obtain the Defendant’s identifying information [CM/ECF 7].

Plaintiff issued the subpoena on September 8, 2019 and received the ISP's response on or about November 18, 2019.

3. Upon receipt of the subscriber's identifying information, Plaintiff conducted a thorough investigation and determined that a good faith basis exists to name the subscriber as the defendant infringer.

4. Accordingly, Plaintiff filed its Amended Complaint to name the Defendant [CM/ECF 14] and requested that the Clerk issue a summons as to the Defendant. The Court issued the summons on December 16, 2019.

5. On or about December 19, 2019, Plaintiff sent the Summons and Amended Complaint to its process server. The process server has advised that he has been escorted to Defendant's apartment door by the doorman of the building to serve Defendant but, there has been no response at the door. Plaintiff's process server further advised that, during his last attempt to serve the Defendant, he heard sounds from inside the apartment door, but no one answered.

6. Due to the recent restrictions placed by health department, city officials, and our Courts due to COVID-19 virus, our process servers have suspended services. Therefore, at this time, Plaintiff respectfully request this Honorable Court extend the deadlines to effectuate service until at least thirty-five days (35) after May 1, 2020. The extension will allow the process servers to adhere to the statewide restrictions.

7. Pursuant to this Court's Order on Plaintiff's Third Motion for Extension of Time Within Which It Has to Effectuate Service on John Doe Defendant, [CM/ECF 28], Plaintiff was required to effectuate service on the Defendant no later than April 17, 2020.

8. Procedurally, Plaintiff respectfully requests that the time within which it has to effectuate service of the summons and Amended Complaint on Defendant be extended until at

least thirty-five (35) days, after May 1, 2020. The additional time will allow Plaintiff's process server time to observe the Department of Health Guidelines and adhere to the quarantine guidelines placed by local officials.

9. This motion is made in good faith and not for the purpose of undue delay.

10. None of the parties will be prejudiced by the granting of this extension.

WHEREFORE, Plaintiff respectfully requests that the time within which it has to effectuate service of the summons and Complaint on Defendant be extended until June 5, 2020. A proposed order is attached for the Court's convenience.

Dated: April 22, 2020

Respectfully submitted,

By: /s/ Kevin T. Conway
Kevin T. Conway, Esq. (KC-3347)
80 Red Schoolhouse Road, Suite 110
Spring Valley, New York 10977-6201
T: 845-352-0206
F: 845-352-0481
E-mail: ktcmalibu@gmail.com
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2020, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that service was perfected on all counsel of record and interested parties through this system.

By: /s/ Kevin T. Conway